

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE JEROME WRIGHT,

Defendant-Appellant.

UNPUBLISHED

February 6, 2007

No. 265954

Berrien Circuit Court

LC No. 2005-402201-FC

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

PER CURIAM.

Defendant was convicted by a jury of armed robbery, MCL 750.529, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced as an habitual offender, second offense, MCL 769.10, to 7 to 20 years' imprisonment for the armed robbery conviction and 2 years' consecutive imprisonment for the felony-firearm conviction. He appeals as of right. We affirm.

On April 28, 2005, defendant entered Robert Finch's (R Finch) barbershop and announced his intentions to rob R Finch. Defendant, who had a pistol in his right hand and was wearing a blue leather jacket, approached R Finch and hit him in the right temple with the barrel of the pistol. R Finch grabbed defendant's arm in an attempt to prevent him from shooting. A scuffle ensued. During the scuffle, defendant put his hand on R Finch's back pocket and tore R Finch's pants to get his wallet. Once defendant had the wallet, he ran out the door.

Soon after the robbery, R Finch's son, Jeff Finch (J Finch), arrived and found his father bleeding from the temple area and wearing torn pants. J Finch then went to look for the robber despite his father's protestations that the robber had a gun. J Finch phoned 911 after locating defendant as he walked along a remote road with an inside-out, blue leather jacket slung over his shoulder.

Soon thereafter, the police arrived and arrested defendant. After the arrest, J Finch alerted the police that defendant no longer had his coat on and indicated that it might be in the field close to a vacant house where defendant had fled prior to arrest. In a shed behind the vacant house, the police found a blue and yellow West Virginia coat, which J Finch identified as the same jacket he earlier saw slung over defendant's shoulder. The police then searched that same field for the gun involved in the robbery but could not find it. According to the police, the field, about the size of three football fields in area, had a lot of high grass, wood piles, trash piles,

as well as an adjacent abandoned house that was cluttered to the point that it was like a garbage dump inside.

Defendant argues on appeal that the prosecution failed to present sufficient evidence to support the convictions because the prosecution did not prove beyond a reasonable doubt that he possessed a dangerous weapon (i.e., the pistol) at the time of the robbery.

We review sufficiency of the evidence challenges in a criminal trial de novo. *People v Cox*, 268 Mich App 440, 443; 709 NW2d 152 (2005). Under de novo review, this Court gives no deference to the trial court. *People v Howard*, 233 Mich App 52, 54; 595 NW2d 497 (1998).

In reviewing the sufficiency of the evidence presented in a criminal trial, we review the evidence to determine whether, when viewed in the light most favorable to the prosecution, it would warrant a trier of fact in finding that all the elements of the crime were proven beyond a reasonable doubt. *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of a crime. *People v Wilkens*, 267 Mich App 728; 705 NW2d 728 (2005). This Court will not interfere with the jury's role in determining credibility of witnesses and weighing the evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

The elements necessary to prove armed robbery are (1) an assault, (2) a felonious taking of property from the victim's presence or person, (3) while armed with a weapon as described in the statute. *People v Ford*, 262 Mich App 443, 458; 687 NW2d 119 (2004); MCL 750.529. Being armed with a weapon is described in MCL 750.529 as possession "of a dangerous weapon or an article used or fashioned in a manner to lead any person present to reasonably believe the article is a dangerous weapon, or who represents orally or otherwise that he or she is in possession of a dangerous weapon...."

To support a felony-firearm conviction the prosecution must show that defendant possessed a firearm during the commission of, or the attempt to commit, a felony. *People v Akins*, 259 Mich App 545, 554; 675 NW2d 863 (2003); MCL 750.227b. "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. MCL 750.222(d).

The prosecution presented R Finch's testimony that defendant had a gun, describing it as a silver revolver, and was confident of this because he could see the cylinder in the barrel.

Although R Finch is the only person who testified that he saw defendant in possession of the pistol, it is the jury's role to determine the credibility of witnesses. *Wolfe, supra* at 514-515. R Finch testified that defendant held a silver revolver in his right hand during the robbery and that defendant struck him in the temple with the gun during the robbery. The jury was free to believe or disbelieve R Finch. In addition, the prosecution introduced pictures of R Finch's injury to his temple. Finally, J Finch testified that his father urged him not to pursue defendant after the robbery because defendant had a gun.

The prosecution need not rebut any and all theories that could prove a defendant innocent, but need only submit evidence sufficient to convince a reasonable jury of the existence

of the elements of the crime in the face of whatever contradictory evidence the defendant provides. *People v Williams*, 268 Mich App 416, 421; 707 NW2d 624 (2005). When viewed in a light most favorable to the prosecution, this evidence would warrant a reasonable trier of fact in finding beyond a reasonable doubt that defendant possessed a dangerous weapon at the time of the robbery.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio